

CHAPTER NO. 435

SENATE BILL NO. 93

By Springer

Substituted for: House Bill No. 370

By Kernell, Garrett, Brooks

AN ACT To amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 68, Chapter 29, relative to the Tennessee medical laboratory board.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-220(a), is amended by deleting item (50) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-226(a), is amended by adding a new item thereto, as follows:

() Tennessee medical laboratory board, created by Section 68-29-109;

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 29, Part 1, is amended by adding the following new section thereto:

Section _____. (a) The board shall promulgate rules governing the assessment of costs against a licensee or other person found by the board to have violated any provision of this chapter. The costs assessed by the board may include only those costs directly related to the prosecution of the charges against the licensee or other person, including investigatory costs where appropriate. The board shall determine the appropriate amount of costs, if any, to be assessed in a contested case. These costs shall be reasonable and proportionate in light of the violation committed by the licensee or other person.

(b)(1) Any elected officer of the board, or any duly appointed or elected chair has the authority to administer oaths to witnesses. Upon probable cause being established, the board, by a vote of two-thirds (2/3) of the members to which the board is entitled, may issue subpoenas for the attendance of witnesses and the production of documents and records.

(2) Service of a subpoena issued by the board shall be made by the sheriff of the county of residence of the licensee or person upon whom the subpoena is served.

(3)(A) A licensee or person served by subpoena shall have thirty (30) days to request in writing a hearing before the board for the sole purpose of making a special appearance to quash or modify the subpoena. The subpoena for attendance of the person or the production of books and records shall be stayed until the board votes upon the request to quash or modify the subpoena. A majority vote of the members to which the board is entitled shall be required to quash or modify a subpoena.

(B) A motion to appeal from a decision by the board regarding a request to quash or modify a subpoena shall be

made to the chancery court in Davidson County within fifteen (15) days of such decision.

(4) If any witness fails or refuses to obey a subpoena issued by it, the board is authorized to make application to any court of record in this state within the jurisdiction of which the witness is found or resides, and the court shall have power to attach the body of the witness and compel the witness to appear before the board and give testimony or produce books, records or papers as ordered, and any failure to obey the court order may be punished by the court issuing the order as a civil contempt.

(5) Each witness who appears before the board by order of the board shall receive for attendance the compensation provided by law for attendance of witnesses in a court of record, which shall be paid from the funds of the board in the same manner as all other expenses of the board are paid.

SECTION 4. This act shall take effect July 1, 1999, the public welfare requiring it.

PASSED: May 28, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR